



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

VALLEY REGIONAL OFFICE

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VIRGINIA WASTE MANAGEMENT BOARD ENFORCEMENT ACTION

ORDER BY CONSENT ISSUED TO

Toray Plastics (America), Inc.

SECTION A: Purpose

This is a Consent Order issued under the authority of Sections 10.1-1455 of the Code of Virginia between the Virginia Waste Management Board and Toray Plastics (America), Inc. (Toray) to resolve certain alleged violations of the Virginia Waste Management Act and the Virginia Solid Waste Management Regulations.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meanings assigned to them below:

1. "Va. Code" means the Code of Virginia (1950), as amended.
2. "Order" means this document, termed a Consent Order under the authority of the Virginia Waste Management Act.
3. "Waste Board" means the Virginia Waste Management Board, a permanent Citizens' Board of the Commonwealth of Virginia described in Va. Code § 10.1-1401 and § 10.1-1184.
4. "Toray" means Toray Plastics (America), Inc., (Reg. # VAR 000 007 096) owner and operator of a manufacturing facility located in Front Royal, Virginia.
5. "Site" or "facility" means Toray's manufacturing facility, located at 500 Toray Drive, Front Royal, Virginia.

6. "DEQ" means the Virginia Department of Environmental Quality, an independent administrative agency within the executive branch of the Commonwealth of Virginia as described in Va. Code § 10.1-1183.
7. "VRO" means DEQ's Valley Regional Office.
8. "Director" means the Director of DEQ, whose powers and duties are described in Va. Code § 10.1-1185.
9. "VHWMR" means the Waste Board's Hazardous Waste Management Regulations, 9 VAC 20-600-10 *et seq.*

SECTION C: Findings of Facts and Conclusions of Law

1. On July 11, 2006, DEQ's VRO staff conducted a compliance evaluation inspection of the Toray facility located at 500 Toray Drive in Front Royal. DEQ staff observed the following factual observations and apparent violations:
 - a. Toray's facility is categorized as a Small Quantity Generator (SQG). 40 CFR 262.34(d), as referenced by 9 VAC 20-60-262, limits SQGs to generating 100kg to 1000kg of hazardous waste per calendar month. Toray reportedly generated 28,046kg in April 2004 and 1,509kg in March 2006, exceeding its SQG limit in both instances.
 - b. Toray failed to contact DEQ immediately in writing of its change in status from a Small Quantity Generator to a Large Quantity Generator, as required by 9 VAC 20-60-315.
 - c. Toray also did not have agreements with the Commonwealth emergency response teams, emergency response contractors, and equipment suppliers as required by 40 CFR 262.34(d)(4), as referenced by 9 VAC 20-60-262.
 - d. Toray failed to post location of fire extinguishers, location of spill control material, and fire alarms, as required by 40 CFR 262.35(d)(5)(ii)(B), as referenced by 9 VAC 20-60-262.
 - e. Toray was observed collecting hazardous waste in a 1-cubic yard box and managing the area as a satellite accumulation area, allowing for the potential for collection of hazardous waste in accumulation of amounts greater than 55 gallons without a permit as required by 40 CFR 262.34(c.2), as referenced by 9 VAC 20-60-262.
 - f. Toray was observed as not conducting required weekly inspections of the waste accumulation area as required by 40 CFR 265.15(d), as referenced by 9 VAC 20-60-265.
2. On September 8, 2006, DEQ representatives met with Toray representatives to discuss the

violations and any corrective action taken by Toray since DEQ's inspection of the facility. Toray submitted a letter to DEQ dated September 21, 2006 in formal, written response to each allegation, and had either completed or initiated appropriate corrective action for each item set out above by that date. Since the written response was submitted to DEQ, Toray has completed all compliance requirements and the facility is presently in full compliance with all waste regulations.

SECTION D: Agreement and Order

Accordingly, the Board, by virtue of the authority granted it in Va. Code §10.1-1455, orders Toray, and Toray voluntarily agrees:

1. To pay a civil charge of **\$14,630.00** within 30 days of the effective date of this Order in settlement of the apparent violations cited in this Order. The effective date of this Order shall be the date the Order is signed by the Director, after required notice and approval by the Board. Payment shall be made by check payable to the "Treasurer of Virginia," delivered to:

Receipts Control
Department of Environmental Quality
Post Office Box 1104
Richmond, Virginia 23218

The payment shall include Toray's Federal ID number and shall state that it is being tendered in payment of the civil charge assessed under this Order.

SECTION E: Administrative Provisions

1. This Order only addresses and resolves those apparent violations specifically identified herein. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility as may be authorized by law; or (3) taking subsequent action to enforce the Order. This Order shall not preclude appropriate enforcement actions by other federal, state, or local regulatory authorities for matters not addressed herein.
2. For purposes of this Order and subsequent actions with respect to this Order, Toray admits the jurisdictional allegations, factual findings, and conclusions of law contained herein.
3. Toray declares it has received fair and due process under the Administrative Process Act, Va. Code §§ 2.2-4000 *et seq.*, and the Virginia Waste Management Act and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation,

and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any and all other facts and conclusions of law, including any action taken by the Board to enforce this Order.

4. Failure by Toray to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
5. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
6. Toray shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other occurrence. Toray shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Toray shall notify the DEQ Regional Director in writing when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
 - a. the reasons for the delay or noncompliance;
 - b. the projected duration of any such delay or noncompliance;
 - c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
 - d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director within 72 hours of learning of any condition above, which Toray intends to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

7. This Order is binding on the parties hereto, their successors in interest, designees and assigns, jointly and severally.
8. This Order shall become effective upon execution by both the Director or his designee and Toray. Notwithstanding the foregoing, Toray agrees to be bound by any compliance date which precedes the effective date of this Order.

9. This Order shall continue in effect until:

a. Toray petitions the Director or his designee to terminate the Order after it has completed all requirements of the Order and the Director or his designee approves the termination of the Order. The Director's determination that Toray has satisfied all the Requirements of the Order is a case decision within the meaning of the Virginia Administrative Process Act; or

b. The Director or the Board terminates this Order in his or its own discretion upon 30 days' written notice to Toray.

10. By appropriate signature below, Toray voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 14th day of March, 2007

Anthony Owen

Regional Director, VRO
Department of Environmental Quality

Toray voluntarily agrees to the issuance of this Order.

By: [Signature]

Date: 1/26/2007

Commonwealth of Virginia

City/County of Prince William

The foregoing document was signed and acknowledged before me this 26th day of January, 2007 by Jeff Lippy, who is
(name)

General Manager of Toray on behalf of Toray.
(title)

[Signature]
Notary Public

My commission expires: October 31, 2010